

REMARKS

Applicant appreciates the Examiner's thorough consideration provided the present application. Claims 1-6 and 9-12 are now present in the application. Claims 3 and 9-11 have been amended. Claim 12 has been added. Claims 7 and 8 have been cancelled. Claims 1 and 3 are independent. Reconsideration of this application, as amended, is respectfully requested.

Allowable Subject Matter

The Examiner has indicated that claims 1 and 2 are allowed. Applicant greatly appreciates the indication of allowable subject matter by the Examiner.

Claim Objections

Claim 9 has been objected to due to the presence of minor informalities. In view of the foregoing amendments, in which the Examiner's helpful suggestions have been followed, it is respectfully submitted that this objection has been addressed. Reconsideration and withdrawal of this objection are respectfully requested.

Claim Rejections Under 35 U.S.C. §112

Claim 9 stands rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. This rejection is respectfully traversed.

In view of the foregoing amendments, it is respectfully submitted that this rejection has been addressed. Reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, first paragraph, are therefore respectfully requested.

Claim Rejections Under 35 U.S.C. § 103

Claims 3 and 4 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kates, U.S. Patent Application Publication No. US 2004/01907734. Claims 5 and 6 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kates in view of Millot, U.S. Patent Application Publication No. US 2003/0002686. Claim 7 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Kates in view of Ingalsbe, U.S. Patent No. 6,556,661. Claims 8-11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kates in view of the Official Notice. These rejections are respectfully traversed.

In light of the foregoing amendments, Applicant respectfully submits that these rejections have been obviated and/or rendered moot. As the Examiner will note, independent claim 3 has been amended to recite a combination of steps including “calculating power values of a plurality of surround audio channels and a central audio channel; adjusting a gain of dynamic range control, the gain being obtained by rectifying the input signal with inverting a plurality of negative parts of the audio input signal and producing an absolute value; processing a calculation of the gain; changing the calculated gain and outputting an output gain; estimating whether the output gain reaches a default value or not; and obtaining a correct gain value based on the output gain.” Applicant respectfully submits that the above combination of steps as set forth in amended independent claim 3 is not disclosed nor suggested by the references relied on by the Examiner.

In particular, although the Examiner alleged that the combination of Kates and Ingalsbe discloses “the adjusting step inverts a plurality of negative parts of the input signal and then produce an absolute value” as recited in claim 7, Kates and Ingalsbe nowhere disclose “the gain

being obtained by rectifying the input signal with inversing a plurality of negative parts of the audio input signal and producing an absolute value” as recited in amended claim 1.

In addition, although the Examiner alleged that Kates discloses obtaining a correct gain value, Kates nowhere discloses that the correct gain value is based on the output gain from the changing step. Therefore, Kates fails to teach “obtaining a correct gain value based on the output gain” as recited in claim 1.

Furthermore, the Examiner has correctly acknowledged that Kates fails to teach “estimating whether the output gain in the changing step reaches a default value or not.” as recited in claim 8 (now incorporated in claim 1). However, the Examiner took the Official Notice that this claimed step is commonly known in the art. Applicants respectfully traverse this Official Notice. Accordingly MPEP §2144.03, it is never appropriate to rely solely on “common knowledge” in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based. Here, the Examiner seems to simply rely on the common knowledge as the sole basis to take the Official Notice and fails to provide the references teaching this feature. If the Examiner persists in maintaining his rejection, Applicants respectfully request that the Examiner provides the reference(s) and shows the motivation in the reference(s) to modify Kates in view of the reference(s) to teach this claimed feature.

With regard to the Examiner’s reliance on the other secondary references, these references also fail to disclose the above combination of steps as set forth in amended independent claim 3. Accordingly, these references fail to cure the deficiencies of Kates.

Accordingly, none of the references utilized by the Examiner individually or in combination teach or suggest the limitations of amended independent claim 3 or its dependent

claims. Therefore, Applicant respectfully submits that claim 3 and its dependent claims clearly define over the teachings of the references relied on by the Examiner.

Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 103 are respectfully requested.

Additional Claim

Claim 12 has been added for the Examiner's consideration. Applicant respectfully submits that claim 12 depends from amended independent claim 3, and is therefore allowable based on its dependence from amended independent claim 3, which is believed to be allowable. Consideration and allowance of claim 12 are respectfully requested.

CONCLUSION

Since the remaining patents cited by the Examiner have not been utilized to reject the claims, but merely to show the state of the prior art, no further comments are necessary with respect thereto.

It is believed that a full and complete response has been made to the Office Action, and that as such, the Examiner is respectfully requested to send the application to Issue.

In the event there are any matters remaining in this application, the Examiner is invited to contact Joe McKinney Muncy, Registration No. 32,334 at (703) 205-8000 in the Washington, D.C. area.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant respectfully petitions for a one (1) month extension of time for filing a response in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

By 

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